

2015 No. (W.)

EDUCATION, WALES

**The Higher Education (Fee and
Access Plans) (Notices and
Directions) (Wales) Regulations
2015**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in respect of directions under section 11 of the Higher Education (Wales) Act 2015 (“the 2015 Act”) and the issue and review of those notices and directions specified in section 41(1) of the 2015 Act.

Regulation 3 provides that HEFCW must immediately give a copy of a direction given under section 11 of the 2015 Act to the Welsh Ministers. The regulation also provides for how HEFCW must publish that direction.

Regulation 4 prescribes the time and manner in which representations may be made in respect of proposed notices and directions. Regulation 5 sets out when notices and directions are to be treated as having been given.

Regulation 6 sets out the information that must be given with notices and directions.

Regulation 7 prescribes the grounds on which an application for a review of a notice or direction may be made. Regulation 8 sets out the procedure that a governing body must follow in order to apply for a review of a notice or direction.

Regulation 9 sets out the procedure to be followed by the person, or panel of persons, appointed by the Welsh Ministers to review notices and directions. Regulation 10 prescribes the post review procedure.

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Access Plans) (Notices and
Directions) (Wales) Regulations
2015**

Made ***

Laid before the National Assembly for Wales

Coming into force ***

The Welsh Ministers, in exercise of the powers conferred by sections 11(5), 42(2)(d), 43(c) and 44(3) of the Higher Education (Wales) Act 2015⁽¹⁾, make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Higher Education (Fee and Access Plans) (Notices and Directions) (Wales) Regulations 2015.

(2) These Regulations come into force on [] and apply in relation to Wales.

Interpretation

2. In these Regulations—

“the 2015 Act” (“*Deddf 2015*”) means the Higher Education (Wales) Act 2015;

“review panel” (“*panel adolygu*”) means the person, or panel of persons, appointed by the Welsh Ministers under section 44(2) of the 2015 Act.

Compliance and reimbursement directions

3. If HEFCW gives a direction under section 11 of the 2015 Act they must—

(1) [2015 anaw xx.]

- (a) immediately give a copy of that direction to the Welsh Ministers;
- (b) publish a copy of the direction on its website—
 - (i) no later than seven days beginning with the date a direction is given,
 - (ii) until HEFCW revokes the direction or HEFCW is satisfied that the direction has been complied with.

Representations in respect of proposed notices and directions: warning notices

4. For the purposes of section 42(2)(d) of the 2015 Act, representations must be made to HEFCW⁽¹⁾ in writing before the end of 40 days beginning with the date of the warning notice.

Treatment of notices and directions

5. A notice or direction specified in section 41(1) of the 2015 Act is to be treated as having been given on the day that the first of the following events occur—

- (a) the governing body notifies HEFCW in writing that it accepts the notice or direction;
- (b) the time limit to apply for a review of the notice or direction under section 44 of the 2015 Act has expired and the governing body has not applied for a review;
- (c) a review of the notice or direction under section 44 of the 2015 Act has concluded and HEFCW has notified the governing body in writing that the notice or direction stands.

Information to be given with notices and directions

6. A statement issued in accordance with section 43 of the 2015 Act must include the following information—

- (a) the date of issue of the notice or direction;
- (b) when the notice or direction is to be treated as having been given;
- (c) the grounds in regulation 7 on which an application for a review may be made;
- (d) the procedure in regulation 8 that a governing body must follow in order to apply for a review;
- (e) the name and address of the review panel to whom an application for a review must be made.

(1) Higher Education Funding Council for Wales.

Grounds for review of notices and directions

7. An application to review a notice or direction under section 44 of the 2015 Act may be made on one or more of the following grounds—

- (a) the governing body presents a material factor for consideration to which, for good reason, it had not previously drawn HEFCW's attention;
- (b) the governing body considers that HEFCW disregarded a material factor which it should have considered;
- (c) the governing body considers that the notice or direction is disproportionate in view of all the relevant facts which were considered by HEFCW.

Procedure to apply for a review of a notice or direction

8. An application for a review of the notice or direction must—

- (a) be made to the review panel in writing before the end of 40 days beginning with the date of issue of the notice or direction;
- (b) specify the grounds for review;
- (c) include the following—
 - (i) a copy of the notice or direction to be reviewed;
 - (ii) a copy of the statement issued in accordance with section 43 of the 2015 Act;
 - (iii) information in support of the application.

Review procedure

9.—(1) This regulation applies where an application for a review has been made.

(2) The review panel must give HEFCW—

- (a) details of the notice or direction to be reviewed;
- (b) details of the grounds on which the application for review has been made;
- (c) a copy of the information provided by the governing body in support of the application for review.

(3) The review panel may make a written request for further information from either HEFCW or the governing body for the purposes of the review. Any request for further information made by the panel must be sent to HEFCW and the governing body at the same time.

(4) HEFCW or the governing body must provide any further information requested by the review panel before the end of 28 days beginning with the date of the request.

(5) The review panel must—

- (a) provide a copy of any further information received from HEFCW to the governing body, and any further information received from the governing body to HEFCW;
- (b) take account of any information submitted by HEFCW or the governing body;
- (c) prepare a written report of the review and its findings;
- (d) send a dated copy of its report to HEFCW and the governing body at the same time.

Post review procedure

10.—(1) Following a review under section 44 of the 2015 Act, HEFCW must take account of the review panel’s report and reconsider its decision to issue the notice or direction.

(2) Before the end of 40 days beginning with the date of the review panel’s report, HEFCW must notify the governing body in writing whether the notice or direction stands or not, and provide reasons for that decision.

Name

Minister for Education and Skills, one of the Welsh Ministers

Date